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BROWN & MICHAELS, PC 400 M & T BANK BUILDING 118 NORTH TIOGA ST ITHACA, NY 14850			EXAMINER VAN DOREN, BETH	
			ART UNIT	PAPER NUMBER
			3623	
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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/021,375

Applicant(s)

RICHARDS ET AL.

Examiner

BETH VAN DOREN

Art Unit

3623

Period for Reply -- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 21 April 2008.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-3, 7-13 and 15-18 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-3, 7-13 and 15-18 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SI-108)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

1. The following is a non-final Office action in response to communications received 4/21/08. Claims 1 and 12 have been amended. Claims 4-6 and 14 have been canceled. Claims 1-3, 7-13, and 15-18 are pending.

Specification

2. The disclosure is objected to because of the following informalities:

The following subject matter is claimed in the application as filed but is not shown in the drawing or described in the description: Claim 1, element (e) and "wherein the original shipper paying the coordinator [...] percentage of the sales amount" and Claim 12 "coordinator paying the end recipients a percentage of the sales amount". The original claims constitute a clear disclosure of this, but Applicant is required per MPEP 608.01(I) to amend the drawing and description to show this subject matter. Applicant should not add new matter to the description or the drawings.

Claim Objections

3. Claims 1-3 and 7-11 are objected to because of the following informalities:

Claim 1 recites "wherein the original shipper paying the coordinator a sales amount for the specifically identified shipping platforms; and the coordinator paying the end recipient a percentage of the sales amount", which should more appropriately be wherein the original shipper pays the coordinator a sales amount for the specifically identified shipping platforms ; and the coordinator pays the end recipient a percentage of the sales amount.

Claims 2-3 and 7-11 depend from claim 1 and therefore contain the same deficiencies.

Appropriate correction is required.

Claim Rejections - 35 USC § 112

4. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

5. Claims 1-3 and 7-11 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 1 recites in element (a) “the separately identified shipping platforms”. There is not sufficient antecedent basis for this limitation in the claim. Clarification is required. For examination purposes, this limitation is construed as the specifically identified shipping platforms.

Claim 1 is also rejected under 35 U.S.C. 112, second paragraph, as being incomplete for omitting essential steps, such omission amounting to a gap between the steps. See MPEP § 2172.01. The omitted steps occur between steps (d) and (e), involving what causes the coordinator to coordinate shipping of the shipping platforms. It is unclear what specifically causes this event to occur. Clarification is required.

Claims 2-3 and 7-11 depend from claim 1 and therefore contain the same deficiencies.

Claim Rejections - 35 USC § 103

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are

such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

7. Claims 1, 4, and 10-11 are rejected under 35 U.S.C. 103(a) as being unpatentable over Saphire (*"Delivering the Goods: Benefits of Reusable Shipping Containers"*) in view of Meehan et al. (U.S. 2002/0029187).

As per claim 1, Saphire teaches a method for retrieving specifically identified shipping platforms which have been sent by a plurality of original shippers to a plurality of end recipients through a coordinator for reuse by the original shipper, wherein the method comprises a coordinator, an end recipient, and an original shipper, wherein each shipping platform is associated with its original shipper (See pages 20-22, and specifically figure 3, wherein a third party reclamation system is disclosed and wherein the coordinator is the IFCO, the original shipper is the grower or packer and the end recipient is the retailer. Since the grower or packer leases the platforms from the third party system, the platforms are specifically associated with this user and a deposit system follows to signify this fact), (e) wherein the coordinator coordinated shipment of the specifically identified shipping platforms from the end recipient to the original shipper (See pages 21-23, and specifically figure 3, wherein the coordinator facilitates the return of the packages to the original shipper via the life cycle set forth), (f) the end recipient giving the specifically identified shipping platforms to the coordinator in exchange for money (See pages 21-23, and specifically figure 3, the end recipient (retailer) exchanges the shipping platforms to the coordinator (IFCO) in exchange for money (the deposit)); wherein the original shipper pays the coordinator an amount for the specifically identified shipping platforms (the lease and the deposit) and the coordinator pays the end recipient a percentage of this amount (just the deposit) (See pages 21-23, and specifically figure 3).

However, while Sapphire teaches a coordinator, Sapphire does not expressly disclose the specific interface of the coordinator with the other parties. Further, while Sapphire teaches an exchange of moneys in the system, Sapphire does not expressly disclose selling the item or a sales amount.

Meehan et al. teaches a method comprising the steps of:

a) the coordinator issuing a separate identifier for the specifically identified items (See paragraph 9-10, 23, 27, wherein different categories are established by the coordinator/site that identify types of items);

b) the coordinator creating a remotely accessible file describing each of the specifically identified items on a computer site (See paragraphs 9, 19, 23, and 27, wherein a database with files are created on the computer site of the coordinator), in which each item descriptions are associated with an first party. The first user is registered in the system with a profile containing a description of items of interest to the user);

c) the coordinator accepting a listing from a second party of at least one item of one of one of the specifically identified items identified in step (a) for sale at the computer site (See paragraph 9-10, 23, wherein an item is listed for sale);

d) the coordinator notifying the first party associated in step (b) with the specifically identifies item of the listing of the at least one item listed by the second party in step (c) (See paragraphs 23 and 27, wherein the first user is notified of the sale of an item based on the type/category of the item and the specific description of an item).

Sapphire discloses a third party system that involves three parties in a platform exchange where the grower/packer leases shipping platforms so that these packages are associated with the

original shipper in the system and wherein the packages transition to an end recipient. The end recipient trades the platforms to the coordinator in exchange for money and the coordinator passes the platform back to the original shipper in exchange for more money than that which was passed to the end recipient retailer. Meehan discloses a specific electronic interface for exchanging the items, this electronic interface exchanging money through selling the item. It would have been obvious to one of ordinary skill in the art at the time of the invention to include that the interface of Meehan et al. in the third party shipping platform system of Saphire in order to more efficiently facilitate the acquiring of items between parties and in order to more efficiently retrieve and reuse shipping platforms. See paragraph 9, 23, and 27 of Meehan et al. and pages 21-23, and specifically figure 3, of Saphire.

As per claims 10-11, Saphire teaches a method for retrieving specifically identified shipping platforms which have been sent by a plurality of original shippers to a plurality of end recipients through a coordinator for reuse by the original shipper, wherein the method comprises a coordinator, an end recipient, and an original shipper, wherein each shipping platform is associated with its original shipper (See pages 20-22, and specifically figure 3, wherein a third party reclamation system is disclosed and wherein the coordinator is the IFCO, the original shipper is the grower or packer and the end recipient is the retailer. Since the grower or packer leases the platforms from the third party system, the platforms are specifically associated with this user and a deposit system follows to signify this fact).

Meehan et al. discloses issuing an identification for an item based on a specifically identified item associated with the original user's profile (See paragraph 9-10, 23, wherein an

item is listed for sale). Meehan et al. further discloses wherein the file created in step (b) comprises item specifications (See paragraphs 9-10).

Saphire discloses a third party system that involves three parties in a platform exchange where the grower/packer leases shipping platforms so that these packages are associated with the original shipper in the system and wherein the packages transition to an end recipient. The end recipient trades the platforms to the coordinator in exchange for money and the coordinator passes the platform back to the original shipper in exchange for more money than that which was passed to the end recipient retailer. Meehan discloses a specific electronic interface for exchanging the items, this electronic interface exchanging money through selling the item. It would have been obvious to one of ordinary skill in the art at the time of the invention to include that the interface of Meehan et al. in the third party shipping platform system of Saphire in order to more efficiently facilitate the acquiring of items between parties and in order to more efficiently retrieve and reuse shipping platforms. See paragraph 9, 23, and 27 of Meehan et al. and pages 21-23, and specifically figure 3, of Saphire.

8. Claims 2-3, 12-13, and 15-18 are rejected under 35 U.S.C. 103(a) as being unpatentable over Saphire ("*Delivering the Goods: Benefits of Reusable Shipping Containers*") in view of Meehan et al. (U.S. 2002/0029187) and in further view of Chep. The following disclose aspects and features of Chep:

- i. Screenshots of Chep.com (www.chep.com) retrieved from archive.org, dated 6/20/2001 (referred to herein as reference C);
- ii. Article "Outlook for Third-Party Management" by LeBlanc, dated 03/01/1999 (referred to herein as reference D).

As per claims 2-3, neither Saphire nor Meehan et al. expressly disclose and Chep discloses, after step (a), of marking the identification with a symbol representing a coordinator onto a plurality of the specifically identified shipping platforms (See reference C, page 3, section 1, pages 4-5, page 6, section 1, wherein a plurality of shipping platforms are marked with a symbol/CHEP logo).

Both Meehan et al., Saphire, and Chep are all concerned with the movement of goods. Saphire discloses a third party system that involves three parties in a platform exchange where the grower/packer leases shipping platforms so that these packages are associated with the original shipper in the system and wherein the packages transition to an end recipient. The end recipient trades the platforms to the coordinator in exchange for money and the coordinator passes the platform back to the original shipper in exchange for more money than that which was passed to the end recipient retailer. Meehan discloses a specific electronic interface for

exchanging the items, this electronic interface exchanging money through selling the item. Finally, Chep discloses that shipping platforms are labeled with an identification mark. It would have been obvious to one of ordinary skill in the art at the time of the invention to include marking the platform of Saphire using the marking method of Chep in order to more efficiently identify the asset to members of the third party system.

However, while Chep discloses marking the platform with a logo, Chep.com does not expressly disclose that the logo includes marking the address for the computer site on the specifically identified shipping platforms.

Chep also discloses the reuse and exchange of shipping platforms, the platforms being marked by a logo for identification. Labeling a product with a logo including a website address is well known in e-commerce as a way to pass on information to a user concerning the product. Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention to include a website address in the logo of Chep in order to increase the recognition and knowledge of the platform by providing a means to identify and locate information concerning the platform. See reference C, page 6, that discusses identifying markings on the shipping platforms.

As per claim 12, claim 12 recites substantially similar limitations to claims 1 and 2 above and is therefore rejected using the same art and rationale set forth above. Further, Saphire discloses c) shipping products on at least some of the plurality of shipping platforms to at least one end recipient (See pages 20-22, and specifically figure 3, wherein goods are shipped on the platforms).

Meehan et al., Chep, and Sapphire are combinable for the same reasons and motivation set forth above with respect to claims 1 and 2.

Claims 13, 15-16, and 17-18 recite substantially similar limitations to claims 3, 7-8, and 10-11, respectively, and are therefore rejected using the same art and rationale set forth above.

9. Claims 7-9 are rejected under 35 U.S.C. 103(a) as being unpatentable over Sapphire (*"Delivering the Goods: Benefits of Reusable Shipping Containers"*) in view of Meehan et al. (U.S. 2002/0029187) and in further view of Canadian Pallet Council (CPC) (www.cpcpallet.com).

As per claims 7-9, Sapphire discloses shipping platforms (See pages 20-22, and specifically figure 3). However, neither Sapphire nor Meehan et al. expressly disclose repair standards associated with the listed items.

CPC discloses presenting and storing information on repair standards for the shipping platforms on a computer site, wherein the shipping platforms are repaired in accordance with the repair standards (See page 2, section 1, page 4, section 1, page 6, section 1, page 7, page 8, which disclose repair information and standards, wherein qualified persons repair the shipping platforms in accordance with the standards). CPC further discloses that this file includes repair standards that comprise at least one item selected from a list comprising: a description of repair policy; general guidelines; stringer board repairs; excessive wear and tear and contamination; nails and hardware; and lumber that can be used to repair the shipping platforms (See page 2, section 1, page 4, section 1, page 6, section 1, page 7, page 8, which discusses the uniform

specifications of the pallet, used in repairs, such as repair policy, contamination, nails and hardware, etc.).

Meehan et al. and Sapphire are combinable for the reasons set forth above. Further, Sapphire is specifically concerned with reuse of shipping containers. CPC discloses repair standard information for reusable shipping platforms. It would have been obvious to one of ordinary skill in the art at the time of the invention to include repair standards for the shipping containers of Sapphire in order to increase reusability and user confidence in the product (i.e. platforms) by presenting the standards used to maintain the products of the third party manager.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to BETH VAN DOREN whose telephone number is (571)272-6737. The examiner can normally be reached on M-F, 8:00-5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Tariq Hafiz can be reached on 571-272-6729. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Art Unit: 3623

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/B.V.D./
May 1, 2008

/Beth Van Doren/
Primary Examiner, Art Unit 3623